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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CHEMOIL CORP.,

Plaintiff,

-v-

UNITED STATES OF AMERICA,

Defendant.

19 Civ. 6314 (ALC) (JW)

DECLARATION OF JENNIFER JUDE

Jennifer Jude declares as follows pursuant to 28 U.S.C. § 1746:

1. I am an Assistant United States Attorney in the office of Damian Williams, United States Attorney for the Southern District of New York. I am assigned to represent the United States of America in this action, and I am familiar with the facts and circumstances set forth herein. I submit this declaration and the attached exhibits in support of the United States' motion for summary judgment in this matter.

2. Attached hereto as Exhibit 1 is the transcript of the deposition of John Skrinar, conducted in this matter on December 21, 2020.

3. Attached hereto as Exhibit 2 is the transcript of the deposition of James Aaron Parrish, conducted in this matter on December 17, 2020.

4. Attached hereto as Exhibit 3 is the transcript of the deposition of Steven Basler, conducted in this matter on December 15, 2020.

5. Attached hereto as Exhibit 4 is the transcript of the deposition of Wayne Herndon, conducted in this matter on December 11, 2020.

6. Attached hereto as Exhibit 5 is the transcript of the deposition of Andre Raposo, conducted in this matter on December 10, 2020.

7. Attached hereto as Exhibit 6 is the transcript of the deposition of Alan Anderson, conducted in this matter on September 24, 2020.

8. Attached hereto as Exhibit 7 is the transcript of the deposition of Thomas Deis, conducted in this matter on September 28, 2020.

9. Attached hereto as Exhibit 8 is the transcript of the deposition of Michael Leister, conducted in this matter on May 19, 2021.

10. Attached hereto as Exhibit 9 is a document produced in discovery by plaintiff Chemoil Corp. (“Chemoil”) titled “Contract Number DPS50309: Vopak Terminal Deer Park Inc. and Chemoil Corporation,” bearing Bates numbers CHEMOIL0000325-44.

11. Attached hereto as Exhibit 10 is a document produced in discovery by Chemoil titled “Sale Confirmation – Revision No. 1,” regarding “Astra Oil Company LLC Contract Reference: 83954-4851,” dated December 20, 2011, bearing Bates numbers CHEMOIL0007491-96.

12. Attached hereto as Exhibit 11 is a document produced in discovery by Chemoil titled “Purchase Confirmation – Revision No. 1,” regarding “Astra Oil Company LLC Contract Reference: 61475-4851,” dated December, 2011, bearing Bates numbers CHEMOIL0000355-60.

13. Attached hereto as Exhibit 12 is a document produced in discovery by Chemoil, a Vopak Terminal Deer Park “Tank Report” for Tank 503, covering the period between November 30, 2011, and December 31, 2011, bearing Bates number CHEMOIL0000363.

14. Attached hereto as Exhibit 13 is an email produced in discovery by Chemoil dated December 20, 2011, bearing Bates number CHEMOIL0007490.

15. Attached hereto as Exhibit 14 are emails produced in discovery by Chemoil dated December 22 and December 26, 2011, bearing Bates numbers CHEMOIL0012994-95.

16. Attached hereto as Exhibit 15 are emails produced in discovery by Chemoil dated December 22 and December 23, 2011, bearing Bates numbers CHEMOIL0013289-90.

17. Attached hereto as Exhibit 16 are emails produced in discovery by Chemoil dated December 27 and December 28, 2011, bearing Bates numbers CHEMOIL0016730-31.

18. Attached hereto as Exhibit 17 is a document produced in discovery by Chemoil, Invoice No. 1220112 from Astra Oil Company LLC (“Astra”) to Chemoil dated December 20, 2011, bearing Bates number CHEMOIL0000353.

19. Attached hereto as Exhibit 18 is a document produced in discovery by Chemoil, Invoice No. 91144284 from Sun Coast Resources, Inc. (“Sun Coast”) to Chemoil dated December 21, 2011, bearing Bates number CHEMOIL0000354.

20. Attached hereto as Exhibit 19 is a document produced in discovery by Chemoil, a Vopak Terminal Deer Park “Customer Order Form” dated December 21, 2011, bearing Bates number CHEMOIL0000362.

21. Attached hereto as Exhibit 20 is a document produced in discovery by Chemoil, Invoice No. 2100059 from Chemoil to Astra dated December 27, 2011, bearing Bates number CHEMOIL0008968.

22. Attached hereto as Exhibit 21 are emails produced in discovery by Chemoil dated December 6 and December 14, 2011, bearing Bates numbers CHEMOIL0012685-86.

23. Attached hereto as Exhibit 22 are emails produced in discovery by Chemoil dated December 6 and December 14, 2011, bearing Bates number CHEMOIL0012667.

24. Attached hereto as Exhibit 23 is a document produced in discovery by Chemoil titled “Sale Confirmation – Revision,” regarding “Astra Oil Company LLC Contract Reference: 83956-4851,” dated December 20, 2011, bearing Bates numbers CHEMOIL0000368-73.

25. Attached hereto as Exhibit 24 is a document produced in discovery by Chemoil titled “Purchase Confirmation – Revision No. 1,” regarding “Astra Oil Company LLC Contract Reference: 61477-4851,” dated December 20, 2011, bearing Bates numbers CHEMOIL0007586-92.

26. Attached hereto as Exhibit 25 are emails produced in discovery by Chemoil dated December 23, December 29, and December 30, 2011, bearing Bates numbers CHEMOIL0008637-40.

27. Attached hereto as Exhibit 26 is a document produced in discovery by Chemoil, Invoice No. 122211 from Astra to Chemoil dated December 23, 2011, bearing Bates number CHEMOIL0000374.

28. Attached hereto as Exhibit 27 is a document produced in discovery by Chemoil, Invoice No. 2100086 from Chemoil to Astra dated December 29, 2011, bearing Bates number CHEMOIL0000384.

29. Attached hereto as Exhibit 28 is a document produced in discovery by Chemoil, a Vopak Terminal Deer Park “Customer Order Form” dated December 13, 2011, bearing Bates number CHEMOIL0007188. The document was produced by Chemoil in native Microsoft Excel

format; the Government converted it to Adobe PDF and added the associated Bates number for purposes of this filing.

30. Attached hereto as Exhibit 29 is a document produced in discovery by Chemoil, a Vopak Terminal Deer Park “Tank Report” for Tank 615, bearing Bates numbers CHEMOIL0000408-26. The document contains two portions, one covering the period between January 1, 2011, and December 31, 2011, bearing Bates numbers CHEMOIL0000408-21, and one covering the period between November 30, 2011, and January 12, 2012, bearing Bates numbers CHEMOIL0000422-26.

31. Attached hereto as Exhibit 30 is a document produced in discovery by Chemoil, a Vopak Terminal Deer Park “Tank Report” for Tank 538, bearing Bates numbers CHEMOIL0000394-407. The document contains two portions, one covering the period between January 1, 2011, and December 31, 2011, bearing Bates numbers CHEMOIL0000394-404, and one covering the period between December 1, 2011, and January 5, 2012, bearing Bates numbers CHEMOIL0000405-07.

32. Attached hereto as Exhibit 31 is a document produced in discovery by Chemoil, Invoice No. 91134609 from Sun Coast to Chemoil dated December 19, 2011, bearing Bates number CHEMOIL0000375.

33. Attached hereto as Exhibit 32 is a document produced in discovery by Chemoil, a Vopak Terminal Deer Park “Customer Order Form” dated December 16, 2011, bearing Bates number CHEMOIL0000393.

34. Attached hereto as Exhibit 33 is a document produced in discovery by Chemoil titled “Sale Confirmation,” regarding “Astra Oil Company LLC Contract Reference: 83955-4851,” dated December 11, 2011, bearing Bates numbers CHEMOIL0008016-21.

35. Attached hereto as Exhibit 34 is a document produced in discovery by Chemoil titled “Purchase Confirmation – Revision,” regarding “Astra Oil Company LLC Contract Reference: 61476-4851,” dated December 23, 2011, bearing Bates numbers CHEMOIL0008010-15.

36. Attached hereto as Exhibit 35 is a document produced in discovery by Chemoil, a Vopak Terminal Deer Park “Tank Report” for Tank 531, covering the period between November 30, 2011, and December 31, 2011, bearing Bates number CHEMOIL0000445.

37. Attached hereto as Exhibit 36 is a set of documents produced in discovery by Chemoil, bearing Bates numbers CHEMOIL0009790-95. Included in this set of documents are (i) Invoice No. 1223112 from Astra to Chemoil dated December 23, 2011, bearing Bates number CHEMOIL0009790, and (ii) Invoice No. 2100105 from Chemoil to Astra dated December 30, 2011, bearing Bates number CHEMOIL0009791.

38. Attached hereto as Exhibit 37 is a document produced in discovery by Chemoil, a Vopak Terminal Deer Park “Customer Order Form” dated December 23, 2011, bearing Bates number CHEMOIL0000444.

39. Attached hereto as Exhibit 38 is a document produced in discovery by Chemoil, Invoice No. 91140709 from Sun Coast to Chemoil dated December 24, 2011, bearing Bates number CHEMOIL0000436.

40. Attached hereto as Exhibit 39 is a document produced in discovery by Chemoil, a contract between Chemoil and Gunvor S.A. (“Gunvor”) dated August 17, 2011, bearing Bates number CHEMOIL0000317-23.

41. Attached hereto as Exhibit 40 are emails produced in discovery by Chemoil dated September 9 and September 12, 2011, bearing Bates numbers CHEMOIL0002106-07.

42. Attached hereto as Exhibit 41 is a document produced in discovery by Chemoil, a term sheet on Gunvor letterhead with Gunvor order number GP1105768-001, bearing Bates number CHEMOIL0004815.

43. Attached hereto as Exhibit 42 is a document produced in discovery by Chemoil, a term sheet on Gunvor letterhead with Gunvor order number GP1105363-001, bearing Bates number CHEMOIL0006237.

44. Attached hereto as Exhibit 43 is a document produced in discovery by Chemoil, a term sheet on Gunvor letterhead with Gunvor order numbers GP1105364-001/ GP1108152-001/ GP1106719-001, bearing Bates number CHEMOIL0010713.

45. Attached hereto as Exhibit 44 is a document produced in discovery by Chemoil, a Vopak Terminal Deer Park “Tank Report” for Tank 614, bearing Bates number CHEMOIL0000639-45. The document contains two portions, one covering the period between January 1, 2011, and December 31, 2011, bearing Bates numbers CHEMOIL0000639-44, and one covering the period between December 31, 2011, and January 3, 2012, bearing Bates number CHEMOIL0000645.

46. Attached hereto as Exhibit 45 is a document produced in discovery by Chemoil, a Vopak Terminal Deer Park “Tank Report” for Tank 748, bearing Bates number CHEMOIL0000592-97. The document contains two portions, one covering the period between January 1, 2011, and December 31, 2011, bearing Bates numbers CHEMOIL0000592-96, and one covering the period between December 31, 2011, and January 3, 2012, bearing Bates number CHEMOIL0000597.

47. Attached hereto as Exhibit 46 is a document produced in discovery by Chemoil, Invoice No. 91088569 from Sun Coast to Chemoil dated November 1, 2011, bearing Bates number CHEMOIL0000448.

48. Attached hereto as Exhibit 47 is a document produced in discovery by Chemoil, a bill of lading for the *MT Puze* with an “on board date” of November 11, 2011, bearing Bates number CHEMOIL0000447.

49. Attached hereto as Exhibit 48 is a document produced in discovery by Chemoil, Invoice No. 2099446 from Chemoil to Gunvor dated November 30, 2011, bearing Bates number CHEMOIL0000449.

50. Attached hereto as Exhibit 49 is a document produced in discovery by Chemoil, Invoice No. 2099775 from Chemoil to Gunvor dated November 30, 2011, attaching copies of associated shipping documents, bearing Bates numbers CHEMOIL0006752-63.

51. Attached hereto as Exhibit 50 is a document produced in discovery by Chemoil, Invoice No. 91113439 from Sun Coast to Chemoil dated November 28, 2011, bearing Bates number CHEMOIL0000550.

52. Attached hereto as Exhibit 51 is a document produced in discovery by Chemoil, Invoice No. 2100085 from Chemoil to Gunvor dated December 29, 2011, attaching copies of associated shipping documents, bearing Bates numbers CHEMOIL0008666-76.

53. Attached hereto as Exhibit 52 is a document produced in response to a subpoena by Cerebrum Capital Management, Inc. (“Cerebrum”), an email with attachments dated January 19, 2012, bearing Bates numbers CEREBRUM 000144-65.

54. Attached hereto as Exhibit 53 are emails produced in discovery by Chemoil dated December 16 and December 17, 2011, bearing Bates numbers CHEMOIL0014557-59.

55. Attached hereto as Exhibit 54 are emails produced in discovery by Chemoil dated December 23 and December 27, 2011, bearing Bates numbers CHEMOIL0009590-98.

56. Attached hereto as Exhibit 55 are emails produced in discovery by Chemoil dated December 28 and December 29, 2011, bearing Bates numbers CHEMOIL0014199-207.

57. Attached hereto as Exhibit 56 are emails produced in discovery by Chemoil dated December 29 and December 30, 2011, bearing Bates numbers CHEMOIL0016152-56.

58. Attached hereto as Exhibit 57 are emails produced in discovery by Chemoil dated December 30, 2011, bearing Bates numbers CHEMOIL0015934-41.

59. Attached hereto as Exhibit 58 are emails produced in discovery by Chemoil dated January 4, 2011, bearing Bates number CHEMOIL0016177.

60. Attached hereto as Exhibit 59 are documents produced in response to a subpoena by Cerebrum, emails dated January 1, January 3, and January 4, 2012, with an attachment, bearing Bates numbers CEREBRUM 000122-30.

61. Attached hereto as Exhibit 60 are emails produced in discovery by Chemoil dated January 8 and January 9, 2012, bearing Bates numbers CHEMOIL0016304-06.

62. Attached hereto as Exhibit 61 are emails produced in discovery by Chemoil dated January 5, 2012, bearing Bates numbers CHEMOIL0013405-06.

63. Attached hereto as Exhibit 62 are emails produced in discovery by Chemoil dated January 4, 2012, bearing Bates number CHEMOIL0016175.

64. Attached hereto as Exhibit 63 is a document produced in response to a subpoena by Cerebrum, an email dated January 9, 2012, bearing Bates number CEREBRUM 000220.

65. Attached hereto as Exhibit 64 are documents produced in response to a subpoena by Cerebrum, emails dated January 9, 2012, bearing Bates numbers CEREBRUM 000218-19.

66. Attached hereto as Exhibit 65 is a document produced in response to a subpoena by Cerebrum, an email dated January 9, 2012, bearing Bates number CEREBRUM 000217.

67. Attached hereto as Exhibit 66 is a document produced by Vopak Terminal Deer Park Inc. in response to a subpoena, a Vopak Terminal Deer Park “Tank Report” for Tank 723, covering the period between December 31, 2011, and January 31, 2012, bearing Bates number VTDP00000046.

68. Attached hereto as Exhibit 67 is a document produced in discovery by Chemoil, a provisional invoice with Invoice No. 1202012 from Astra to Chemoil dated January 20, 2012, with attached inspection report, bearing Bates numbers CHEMOIL0000906-10.

69. Attached hereto as Exhibit 68 is a document produced in discovery by Chemoil, an inspection report dated January 14, 2012, with attached associated shipping records, bearing Bates numbers CHEMOIL0000615-24.

70. Attached hereto as Exhibit 69 is a document produced in discovery by Chemoil, a certificate of analysis dated January 10, 2012, bearing Bates number CHEMOIL00010101.

71. Attached hereto as Exhibit 70 is a document from the administrative file of the Internal Revenue Service (“IRS”) with respect to this matter, Chemoil’s Form 720 (Quarterly Federal Excise Tax Return) for the quarter ending on December 31, 2011, bearing Bates numbers US000154-63.

72. Attached hereto as Exhibit 71 is a document from the IRS’s administrative file, a fax cover sheet dated August 29, 2014, enclosing Chemoil’s protest, bearing Bates numbers US000063-82.

73. Attached hereto as Exhibit 72 is a document from the IRS's administrative file, a fax transmission report and associated letter (with enclosures) from IRS to Chemoil dated July 30, 2014, bearing Bates numbers US000307-16.

74. Attached hereto as Exhibit 73 is a document from the IRS's administrative file, a letter (with enclosures) from IRS to Chemoil dated August 19, 2014, bearing Bates numbers US000097-101.

75. Attached hereto as Exhibit 74 is a document from the IRS's administrative file, an Examining Officer's Activity Record for IRS Revenue Agent Alan Anderson covering the period between February 20, 2014, and September 25, 2014, bearing Bates numbers US001178-85. The redactions were applied by counsel for the Government as part of this litigation.

76. Attached hereto as Exhibit 75 is a document from the IRS's administrative file, an IRS E500 Penalty Check Sheet dated August 18, 2014, which includes a check mark in the field marked "Approved" and the initials "TD" in the field marked Group Manager Initials, bearing Bates numbers US000120-21.

77. Attached hereto as Exhibit 76 is a document from the IRS's administrative file, an IRS E500 Penalty Check Sheet dated August 18, 2014, which includes a check mark in the field marked "Approved," the initials "TD" in the field marked Group Manager Initials, and a handwritten signature, bearing Bates number US000213.

78. Attached hereto as Exhibit 77 is a document from the IRS's administrative file, Chemoil's Form 843 (Claim for Refund and Request for Abatement) dated September 23, 2014, bearing Bates number US000348.

79. Attached hereto as Exhibit 78 is a document produced in discovery by Chemoil titled “Chemoil, 4th Quarter 2011 Tax Audit, Alcohol Fuel Mixture Credits,” bearing Bates numbers CHEMOIL0000070-161.

80. Attached hereto as Exhibit 79 are documents from the IRS’s administrative file, two letters from IRS to Chemoil, both dated October 6, 2017, bearing Bates numbers US001257-58.

81. Attached hereto as Exhibit 80 is Plaintiff Chemoil Corp.’s Responses to Defendant’s Second Set of Interrogatories and Request for Production, and First Set of Requests for Admission in this case, which were served on the government by Chemoil on December 21, 2020.

82. Attached hereto as Exhibit 81 are emails produced in discovery by Chemoil dated December 23, 2011, bearing Bates number CHEMOIL0008037.

83. Attached hereto as Exhibit 82 are emails produced in discovery by Chemoil dated December 23, 2011, bearing Bates numbers CHEMOIL0008042-43.

84. Attached hereto as Exhibit 83 are emails produced in discovery by Chemoil dated December 21, 2011, bearing Bates number CHEMOIL0007583.

85. Attached hereto as Exhibit 84 are emails produced in discovery by Chemoil dated December 29, 2011, bearing Bates number CHEMOIL0008768.

86. Attached hereto as Exhibit 85 are emails produced in discovery by Chemoil dated December 27, 2011, bearing Bates numbers CHEMOIL0014336-38.

87. Attached hereto as Exhibit 86 is an email produced in discovery by Chemoil dated January 3, 2012, bearing Bates numbers CHEMOIL0013332.

88. Attached hereto as Exhibit 87 are documents produced in response to a subpoena by Cerebrum, emails dated January 18, 2012, attaching shipping documents, bearing Bates numbers CEREBRUM000113-21.

89. Attached hereto as Exhibit 88 are emails produced in discovery by Chemoil dated January 5, 2012, bearing Bates numbers CHEMOIL0009968-69.

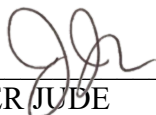
90. Attached hereto as Exhibit 89 is an email produced in discovery by Chemoil dated January 5, 2012, bearing Bates number CHEMOIL0009844.

91. Attached hereto as Exhibit 90 is Plaintiff Chemoil Corp.'s Privilege Log Under Local Rule 26.2 in this case, which was served on the government by Chemoil on September 14, 2020.

92. Attached hereto as Exhibit 91 is a document from the IRS's administrative file, an IRS Appeal Transmittal and Case Memo dated October 3, 2017, bearing Bates numbers US001270-72.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: July 8, 2022
New York, New York



JENNIFER JUDE
Assistant United States Attorney